UNITED
NATIONS

EP

Governing Council
of the United Nations
Environment Programme

Distr.
GENERAL

UNEP/GC.19/INF.7
21 November 1996

ORIGINAL: ENGLISH

Nineteenth session
Nairobi, 27 January - 7 February 1997
Item 6 of the provisional agenda*

PROGRAMME MATTERS

Report of the Government-designated Group of Experts on Further Measures to Reduce the Risks from a Limited Number of Chemicals

Note by the secretariat

1. The secretariat has the honour to circulate herewith, for the information of participants in the nineteenth session of the Governing Council, the report of the Government-designated Group of Experts on Further Measures to Reduce the Risks from a Limited Number of Chemicals on its work.

2. This report, which has already been circulated in all official languages under the symbol UNEP/PIC/EG/1/3, supplements the progress report of the Executive Director on the development of an international legally binding instrument for the application of the prior informed consent (PIC) procedure for certain hazardous chemicals in international trade, and the consideration of further measures to reduce the risks from hazardous chemicals, which will be before the Council at its nineteenth session as document UNEP/GC.19/24. The latter document also formally transmits to the Council for its consideration the recommendations of the Group of Experts, which are set out in annex I to the attached report.

* UNEP/GC.19/1.

Na.96-0809 041296

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Annex

REPORT OF THE GOVERNMENT-DESIGNATED GROUP OF EXPERTS ON FURTHER MEASURES TO REDUCE THE RISKS FROM A LIMITED NUMBER OF HAZARDOUS CHEMICALS ON ITS WORK

Introduction

1. In its decision 18/12 of 26 May 1995, the Governing Council of the United Nations Environment Programme (UNEP) invited the Executive Director to convene a Government-designated Group of Experts to consider and recommend what further measures are needed to reduce the risks from a limited number of hazardous chemicals, either within or beyond the scope of the existing prior informed consent procedure (PIC), and to report thereon to the Governing Council at its nineteenth session.

2. In accordance with the above mandate, the first session of the Government-designated Group of Experts was held in Copenhagen from 16 to 19 April 1996, at the invitation of the Government of the Kingdom of Denmark.

I. ORGANIZATION OF THE SESSION

A. Opening of the session

3. The session was opened by Mr. J. Whitelaw (UNEP), on behalf of the Executive Director of UNEP, at 10.20 a.m. on Tuesday, 16 April 1996.

4. Mr. E. Lindegaard, Director of the Environmental Protection Agency, Ministry of Environment and Energy of Denmark, in his opening address said that threats to health and the environment from trade and use of hazardous chemicals represented one of the greatest environmental problems of the present time. The PIC procedure marked an important first step in regulating trade in such chemicals, which should never be allowed to go unchecked. Stressing the need to provide information, particularly to consumers, as a way of reducing risks in relation to dangerous substances, he said that consumer pressure could even stop the trade and production of such substances. Important measures included export notification; classification, packaging and labelling; more intensive monitoring; phase-outs; production of a list of dangerous chemicals for which substitutes existed; and long-term measures such as capacity-building, application of clean technology and technology transfer.

5. Mr. J. Whitelaw, thanking the Government of Denmark for hosting the meeting, said that Governing Council decision 18/12 reflected a need first to identify any issues that went beyond the scope of the PIC procedure, to look at the action being taken concerning PIC and persistent organic pollutants (POPs) and elsewhere, and provide the Governing Council at its nineteenth session with recommendations on what further measures are needed to reduce the risks identified from a limited number of hazardous chemicals. The meeting thus needed to look at the risks that would be avoided by implementing any proposed measures and the rationale behind the measures. In identifying problems, it was necessary to focus on those that were clearly global in nature and not raise local priorities, unless the solution to the problems they presented lay in global action.

B. Attendance

6. The session was attended by members of the Group of Experts from the following countries: Australia, Austria, Brazil, Canada, China, Colombia, Costa Rica, Czech Republic, Denmark, Germany, India, Japan, Malaysia, Mexico, Netherlands, South Africa, Sweden, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland, and United States of America.

7. Experts from Belgium, Chad and the European Community also attended as invited observers.

8. The following United Nations bodies and specialized agencies were represented as invited observers: International Labour Organization (ILO), Food and Agriculture Organization of the United Nations (FAO), United Nations Institute for Training and Research (UNITAR).

9. The following intergovernmental and non-governmental organizations also attended as invited observers: Groupement International des Associations Nationales de Fabricants de Produits Agrochimiques (GIFAP), International Council of Chemical Associations (ICCA), Organisation for Economic Cooperation and Development (OECD), the Pesticides Trust (PT). The following non-governmental organization also attended: the International Council on Metals and the Environment (ICME).

C. Election of officers

10. The Government-designated Group of Experts elected the following officers by acclamation:

Chairperson: Mr. N.J. Jensen (Denmark)

Rapporteur: Mr. W. Scott (South Africa)

D. Adoption of the agenda

11. The Group of Experts adopted the following agenda for the session, as contained in document UNEP/PIC/EG/1/1:

1. Opening of the session.
2. Organizational matters:
   (a) Election of officers;
   (b) Adoption of the agenda;
   (c) Organization of work.
3. Consideration of the mandate given to the Government-designated Group of Experts by the Governing Council in its decision 18/12.
4. Identification of health or environmental problems that might require global action to reduce the risks from a limited number of hazardous chemicals.
5. Consideration and recommendation of what further measures are needed to reduce such risks from a limited number of hazardous chemicals.
6. Other matters.
7. Adoption of the report.
8. Closure of the session.

E. Organization of work

12. It was decided that the Group of Experts would meet in plenary, with the possibility of establishing small working groups, as needed, to consider specific issues.

II. CONSIDERATION OF THE MANDATE GIVEN TO THE GOVERNMENT-DESIGNATED GROUP OF EXPERTS BY THE GOVERNING COUNCIL IN ITS DECISION 18/12

13. Introducing Governing Council decision 18/12, a representative of the Secretariat drew particular attention to its paragraphs 2 and 3. The mandate directed the experts to take into account the work on the negotiation of a legally binding instrument for application of PIC, the work on POPs under way to respond to Governing Council decision 18/32, and the current work of the Intergovernmental Forum on Chemical Safety (IFCS). Therefore, the mandate of the present meeting should not duplicate the work carried out by other forums. He further noted that the decision did not specify what form any further measures might take, and hence there was considerable flexibility available to the Expert Group.

III. IDENTIFICATION OF HEALTH OR ENVIRONMENTAL PROBLEMS THAT MIGHT REQUIRE GLOBAL ACTION TO REDUCE THE RISKS FROM A LIMITED NUMBER OF HAZARDOUS CHEMICALS

14. In the discussion on agenda item 4, the Expert Group identified the following problem areas: risks of POPs; occupational risks in handling chemicals or pesticides; lack of training and education; lack of national legislation governing hazardous chemicals and pesticides; pollution of the environment by hazardous chemicals; dumping of hazardous chemicals; stocks of obsolete pesticides, including those received in the form of aid; lack of health- and safety-related information on chemicals and pesticides; risks of mixtures containing hazardous chemicals; access to confidential information concerning chemicals, products and mixtures; ease of trade and internal distribution of chemicals and pesticides; inability of small-scale industry to implement agreed procedures and regulations; lack of capacities to monitor and address problems identified and to ensure adequate implementation of agreements and procedures; need for technical and financial assistance, technology transfer and a special mechanism similar to the mechanism related to ozone-depleting substances (ODS).

15. In light of the above, and recognizing that many of these problems were being dealt with through existing conventions and other processes, the Chairman proposed that the Expert Group pursue its debate under four broad headings:

(a) Inadequate capacity of developing countries to handle issues of hazardous chemicals and pesticides;

(b) Disposal of unwanted stocks of pesticides and other chemicals;

(c) Insufficient information for chemicals management decision-making and action;

(d) Possible need to ban and phase out certain chemicals.

Inadequate capacity of developing countries to handle issues of hazardous chemicals and pesticides

16. A number of speakers described the activities - bilateral, regional and multilateral - that were already taking place to build capacities in developing countries for the management of hazardous chemicals.

17. Where legislation and regulations on hazardous chemicals had been adopted, it was observed, the Governments of developing countries often had difficulty in monitoring and enforcing their implementation.

18. Training needed to be provided to developing countries to enhance their capacity to interpret information on chemicals and pesticides and to help them identify those products which need to be controlled, subjected to careful use or whose use had to be eliminated as a result of the risks they

posed. It was also necessary to strengthen registers of chemicals in developing countries and provide training in how to use them.

19. In terms of physical infrastructure, equipment needed to be provided to developing countries, as well as laboratory facilities, particularly formulation laboratories.

20. It was stated that there was a clear need for improved flows of extra and existing resources for capacity-building, as those provided were small compared to what was allocated to other fields of development. In order to obtain a share of the available multilateral and bilateral assistance, Governments of developing countries needed to give sufficient priority to the area of chemicals management in their requests for assistance and explain their needs. With regard to industry financing of infrastructure development, a cautionary note was sounded concerning possible conflict of interest. Some representatives expressed the view that there was a need to set up a special trust fund to meet the particular requirements of developing countries.

21. It was stressed that capacity-building represented a shared but differentiated responsibility, requiring cooperation and coordination between countries, international and non-governmental organizations, industry and others to avoid areas of overlap or gaps in the management of hazardous chemicals. The importance of regional coordination was also highlighted, particularly in view of the fact that some countries, due to their size or other constraints, could not establish their own complete infrastructure for chemicals management. The representative of OECD said OECD was preparing information and compiling a database of how its members distributed aid so that all countries had an idea of what aid was being provided and by whom, in order to identify gaps.

22. In connection with information stored in databases, there was often no access to updated information and the capacity to interpret available information was low. More information was needed on trade in hazardous chemicals to make clear who was exporting and who was importing and had to be made available to the public. Hazardous chemical production sites needed to be registered, and that information made public. With regard to Pollutant Release and Transfer Registers (PRTRs), the information had to be given to communities so that the monitoring capacity for trade in hazardous chemicals could be developed.

23. The ILO experience in technical capacity-building was outlined. Its technical cooperation activities, including large-scale projects and smaller national and regional training activities, aimed at fostering national capabilities in the field of chemical safety. Whilst most funding of these activities came from the United Nations Development Programme (UNDP), donor countries and the World Bank, the regular budget of ILO covered a small part of the technical cooperation programme.

Disposal of unwanted stocks of pesticides and other chemicals

24. The representative of FAO gave an account of his organization's experience in addressing the problem of the disposal of outdated pesticides in developing countries. Guidelines for the disposal of pesticides were being prepared, and an inventory of stocks in Africa and the Near East was being undertaken. FAO considered that the best way of disposal was to collect the pesticides concerned and send them for incineration in a country with the appropriate facilities. That was a costly undertaking. In addition, since the obsolete pesticides were classified as hazardous wastes under the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, agreement had to be reached between the importing and exporting countries. The situation was further complicated if the developing country was not a party to the Basel Convention, in which case, he suggested, the shipment would be illegal. Considerable resources

would be required to dispose of all obsolete stock, and a donor meeting was to be held later in the year to discuss how to proceed.

25. It was suggested that consideration should also be given to disposal options, such as thermal decomposition and biodegradation, that did not involve transboundary movements. It was further suggested that the question was more than one of waste management and that measures should be taken to avoid such problems in the future, including by placing a greater emphasis on integrated pest management and sustainable agriculture. Mention was made of the need to ensure that due account was taken of the health and safety aspects of disposal and that obsolete stocks of chemicals did not spill over into the environment as a result of the process.

26. The view was expressed that the forthcoming meeting on POPs, to be held in Manila, would provide an occasion for an in-depth discussion on the disposal of the stocks of chemicals which have been identified as POPs. However, it was also underlined that the problem of the disposal of stocks of outdated chemicals was much wider than the disposal of stocks of POPs.

27. The representative of GIFAP indicated that there were cases where companies had disposed of outdated stocks of their own pesticides at their own cost. Such a practice was reinforced by the responsible-care initiative. GIFAP members recognized their responsibilities and were prepared to participate in addressing the problem. There was, however, a need for more information on what was involved, and his organization looked forward with interest to the outcome of the FAO inventory.

28. The representative of ILO cautioned against the potential safety and health problems that faced waste-disposal workers. In that regard, he outlined his organization's mandate in protecting the health of the workers and the experience gained in this field as well as the measures which could be adopted in the field of workers's protection, pointing out the various ILO Conventions and publications on the subject.

29. There was general recognition that the lack of funding for disposal operations constituted a major impediment to the eradication of obsolete stocks of chemicals. Some representatives pointed out that, in many cases, such operations were not considered eligible for development assistance and that, where the original country of export was identified, funding possibilities became further restricted in that disposal was seen as the responsibility of that country. In response, other representatives suggested that, if developing countries declared the disposal of outdated stocks to be one of their priorities when preparing an indicative national programme, it might be possible to allocate a certain amount of existing development assistance for the purpose. The need for greater coordination among donors and international financial institutions was also expressed. It was pointed out, however, that even if the problem of funding was solved, the social problems involved in the siting of disposal facilities would not be.

Insufficient information for chemicals management decision-making and action

30. In the discussion on issues related to insufficient information, attention was drawn to the need to improve the availability and accessibility of information in the composition of mixtures. It was suggested that such information might be collected from producer countries. It was pointed out that it was often difficult to obtain information on emergency response measures to be taken in the event of an industrial accident. Access to data banks on all types of substances had to be improved and the information available should be updated more regularly. One expert recalled that the European Community's system of export notification was already providing importing countries with relevant information concerning the composition of mixtures. One expert, referring to the workshop on available information planned for the forthcoming session of IFCS, said that the information needs of countries should be compiled and sent to the organizers so that the workshop could be tailored to match users' requirements.

31. Reference was made to the need to put in place a system to monitor chemicals from production to final use and to the difficulties encountered in obtaining information on exports and imports of particular chemicals. In that regard, it was suggested that such data on trade could be more easily compiled through the use of specific customs codes.

32. In this context, it was also agreed that other mechanisms should be considered by the UNEP Governing Council in early 1997, within or beyond the scope of the PIC procedure, as for example the notification of control action, labelling, the export notification, customs codes for PIC chemicals and import decisions.

33. On the question of confidentiality of information, it was stated that, in accordance with the principles of responsible care and product stewardship, producers made a point of providing information to regulatory bodies when particular problems arose. International Council of Chemical Associations (ICCA) members provided data to countries in accordance with regulatory requirements that specified the data to be received and made appropriate provision for the protection of confidentiality. An effort was being made to develop the same working relationship with Governments of developing countries as that prevailing with those of developed countries. It was suggested that all countries should introduce legislation to protect the confidentiality of information and provide for strict sanctions in the event of breaches and that this issue should be considered by the next UNEP Governing Council. At the same time, it was noted that certain types of information could be not regarded as confidential, especially in view of the role to be played by the public in enforcing legislation on safety and health. In that connection, attention was drawn to OECD Council recommendation C(83)98 of 29 July 1983 concerning the OECD list of non-confidential data on chemicals and to the EC Council regulation No. 2455/92, which listed types of information not to be regarded as confidential.

34. It was suggested that there was a need to improve understanding of the level of toxic releases into the environment. Consideration should therefore be given to promoting PRTRs, which were a good tool for obtaining baseline information.

35. The importance of labelling and material safety data sheets (MSDSs), which were mandatory in the European Union, was also pointed out, and that this issue should be considered by the next UNEP Governing Council.

Possible need to ban and phase out certain chemicals

36. The view was expressed that, while some chemicals, such as ozone-depleting substances and persistent organic pollutants, caused global problems, some PIC chemicals were different in that they might cause problems under specific conditions of use in specific countries. The idea of bans or phase-outs ran counter to the PIC principle that each country was to make its own decision in the light of local conditions of use and local requirements. It was suggested that a ban was most often not the best solution, the real need being to assess the substances concerned to see how they could be used with least risk and whether substitutes existed. Reference was made to the problem of multiple-use chemicals, where only one particular use might be banned. In addition, since several chemicals were manufactured in more than one country, some of which might not be included in the PIC procedure and would not observe a national ban, there was a risk of trade being diverted and involving only the less-reputable manufacturers. Attention was also drawn to the need for measures to be consistent with the trade-related principles included in Agenda 21, in particular to be the least trade restrictive necessary to achieve the objective, although the contrary view - that restrictions in trade in hazardous substances should take precedence over the principles of free trade - was also expressed.

37. A few representatives expressed the opinion that the Expert Group did not have the authority to pursue proposals for banning or phasing out certain

chemicals. It was suggested that IFCS was the appropriate forum for the discussion of the need for such provisions. In addition, there was concern that pursuing the proposals could delay the work to establish a legally binding instrument for the application of the PIC procedure.

38. It was also observed that developing and developed countries had different perceptions with regard to bans and phase-outs of chemicals and pesticides, particularly concerning those required as part of the development process. Any assessment of whether to ban or phase out a chemical should involve comprehensive risk assessment, the availability of acceptable alternatives and needed to take full account of any socio-economic impacts on countries and caution needed to be exercised.

39. However, the view was also expressed that certain local problems, which could not be addressed by local action and which had a global dimension, justified the need for global action. It was already possible to address the problem, and the use of products containing substances with estrogenic effect was mentioned as an example of a local problem justifying global action. The use of parathion and endosulfan was also mentioned in the same context. It was emphasized that a local problem could easily develop into a global problem. Others made the point that the scientific advice as to estrogenic effects and the transboundary or global dimension involved was conflicting and certainly not authoritative. It was noted that endosulfan and parathion have important controlled agricultural uses in some countries. It was also noted that the meeting had not had the time to identify or sufficiently discuss specific problems not being already addressed elsewhere which would justify a global phase-out or ban of a particular chemical.

40. Nevertheless, it was considered that there should be a broad discussion of the need for an international legally binding framework on bans and phase-outs of a limited number of hazardous chemicals. Moreover, it was said, such consideration need not necessarily be linked with nor hamper the negotiation of the PIC convention. Indeed, the remit of the present group was to go beyond PIC. It was pointed out that, in considering which chemicals might be considered for bans or phase-outs, there was first a need to draw up criteria to assess global risks. It was also important to promote alternatives. Many chemicals had already been banned by many countries and, together with proposals tabled within the POPs negotiations, such information could provide guidance on how to proceed in identifying candidate chemicals. The hope was also expressed that, if it became a global issue, a window for chemicals management might be opened within the Global Environment Facility (GEF). A number of experts also suggested that a mechanism for technical and financial assistance, similar to the mechanism relating to ozone-depleting substances set up under the Vienna Convention for the Protection of the Ozone Layer and its Montreal Protocol on Substances that Deplete the Ozone Layer, should be established.

41. As a conclusion it was widely agreed to recommend to the UNEP Governing Council to call upon the IFCS in order to identify chemicals which are not POPs but that, nevertheless, create risks of international concern.

IV. CONSIDERATION AND RECOMMENDATION OF WHAT FURTHER MEASURES ARE NEEDED TO REDUCE SUCH RISKS FROM A LIMITED NUMBER OF HAZARDOUS CHEMICALS

42. Following its discussion of agenda item 4, the Group of Experts decided to set up two drafting groups to consider specific issues and formulate recommendations on further measures, for submission to the Governing Council at its nineteenth session. Drafting Group 1, chaired by Mr. W. Scott (South Africa) and comprising the representatives of Costa Rica, India, Netherlands, United States and FAO, dealt with issues of capacity-building, inadequate information and unwanted stocks. Drafting Group 2, chaired by Mr. R. Arndt (Germany) and open-ended in nature, dealt with the issue of bans or phase-outs.

43. The Chairman of Drafting Group 1 reported back to the plenary on the results of the discussions in the group and introduced its draft recommendations on inadequate information (UNEP/PIC/EG/1/CRP.2), unwanted stocks of pesticides and other chemicals (UNEP/PIC/EG/1/CRP.4) and on capacity-building (UNEP/PIC/EG/1/CRP.5).

44. The Chairman of Drafting Group 2 reported back to the plenary on the results of the discussions of the open-ended drafting group concerning possible bans and phase-outs of a limited number of chemicals and introduced its report, contained in document UNEP/PIC/EG/1/CRP.3.

45. On the basis of the reports of the Drafting Groups, the Group of Experts adopted the recommendations contained in annex I to the present report.

46. When recommending the further definition of problems concerning unwanted stocks, the Group of Experts considered that the Governing Council might take into account the trade and aid assistance needs of developing countries and countries with economies in transition in order to prevent donations or transfers of obsolete and outdated stocks.

47. The Group of Experts also took note of a proposal by Belgium and the Netherlands (see UNEP/PIC/EG/CRP.1 and annex II to the present report), which received broad support, regarding the possible benefits of an integrated international legal mechanism concerning the management of hazardous chemicals and invited the Executive Director of UNEP, the FAO Director-General, and the President of IFCS to seek the views of Governments on this issue for consideration by the UNEP Governing Council at its nineteenth session, by the FAO Council, and by IFCS. The Group of Experts endorsed the view that consideration of such a measure should not impede progress on current or possible future negotiations to manage hazardous chemicals.

V. OTHER MATTERS

48. In answer to a question from the floor concerning the date and location of the second meeting of INC, the representative of UNEP said that the Bureau of INC and the joint UNEP/FAO secretariat would be meeting to decide on the matter.

49. Referring to the Group's recommendation to the Governing Council concerning information needs of importing countries and the assessment to be conducted by the UNEP secretariat of the costs, benefits and impacts of measures available, the representative of UNEP said that input would be required from Governments with regard to the costs of implementing the various activities involved in preparing the assessment.

VI. ADOPTION OF THE REPORT

50. It was decided that the report of the proceedings would be circulated to delegates for them to submit written comments and amendments. It was also decided that the Chairman, the Rapporteur and the secretariat would be entrusted with the task of incorporating such submissions into the final report and of putting the recommendations into the required format for presentation to the Governing Council.

VII. CLOSURE OF THE SESSION

51. After the customary exchange of courtesies, the Chairman declared the meeting closed at 4.30 p.m. on Friday, 19 April 1996.

Annex I

RECOMMENDATIONS OF THE GROUP OF EXPERTS

1. Unwanted stocks of pesticides and other chemicals

The Group of Experts,

Taking note of the ongoing work of the Food and Agriculture Organization of the United Nations (FAO) to promote the proper management of unwanted pesticide stocks,

Recognizing the capabilities of industry to assist in the safe management of obsolete and outdated stocks,

Taking note of the concerns raised on stocks of other chemicals, such as polychlorinated biphenyls (PCBs),

1. Recommends to the Governing Council of the United Nations Environment Programme (UNEP) that UNEP, in cooperation with FAO and in consultation with the secretariats of the Basel Convention, the World Health Organization, the International Labour Organization and other members of the Inter-Organization Programme for the Sound Management of Chemicals (IOMC), as appropriate, constitute an expert group on obsolete and outdated chemicals to provide advice to Governments on:

(a) The further definition of problems, in particular in developing countries and countries with economies in transition;

(b) The prevention, management, reuse or eventual safe disposal of obsolete and outdated pesticides and chemicals;

(c) The further development of guidance documentation for Governments on the prevention, management, reuse or safe disposal of obsolete and outdated pesticides and chemicals;

2. Recommends that the Governing Council call upon receiving countries to prioritize their needs and integrate them into their requests for existing funds provided by bilateral and multilateral donors;

3. Recommends that the Governing Council call upon donors, in close cooperation with FAO and UNEP and in consultation with industry and other non-governmental organizations, and through enhanced donor coordination, to mobilize financing for the safe management and disposal of obsolete and outdated pesticides and chemicals.

2. Capacity-building

The Group of Experts,

I

Acknowledging the ongoing work of the United Nations Institute for Training and Research (UNITAR) and the Intergovernmental Forum on Chemical Safety (IFCS) to develop national profiles on the existing infrastructure for chemicals management;

Recommends that the Governing Council of the United Nations Environment Programme (UNEP):

(a) Call upon IFCS to identify country needs for capacity-building for the sound management of chemicals and recommend providing a mechanism to encourage partnerships between recipients and donors of technical assistance to help coordinate these activities;

(b) Call upon member organizations of the Inter-Organization Programme for the Sound Management of Chemicals (IOMC), UNITAR and bilateral agencies to further strengthen the coordination of their capacity-building activities;

II

Recognizing the complexity of and the substantial resources required for chemical management,

Recommends to the Governing Council that countries cooperate regionally to harmonize their approaches to manage chemicals safely;

III

Recommends that the Governing Council:

(a) Recommend that donors, bilateral/regional/international cooperation and assistance organizations and recipient countries give a higher priority to programmes for the improvement of chemicals management, including programmes which could facilitate training, technical assistance and development of clean technology and safer alternatives to chemicals and chemical use, especially in developing countries and countries with economies in transition;

(b) Take into consideration the global significance of the health and environmental problems caused by chemicals, for example persistent organic pollutants, and the need to develop the capacity of developing countries and countries with economies in transition to manage chemicals safely;

(c) Take into account the special concerns of countries of transit for banned or severely restricted chemicals who may not yet have joined the PIC procedure, so that they could benefit by the application of such procedures to the extent possible;

(d) Request that the Council of the Global Environment Facility (GEF) takes also into consideration the global significance referred in subparagraph (b) above in order to investigate the relationship between the need of countries to develop chemicals-management capacity, in particular to address the global risks posed by local emissions and discharges of persistent organic pollutants, and the four existing "windows" of the GEF operational strategy, as well as other possible options;

(e) Support the action under way within the Organisation for Economic Cooperation and Development (OECD) and multilateral development banks to develop new or review existing guidelines to ensure that investments involving chemical manufacture or use are made in an environmentally sound manner and, in the case of the multilateral development banks, include in appropriate sectoral projects, the funding of the development of sound chemicals-management infrastructure;

IV

Recommends that the Governing Council invite Governments to develop and implement legislation on chemical safety, including occupational safety and health. In developing legislation, Governments should, as appropriate, take into consideration relevant activities undertaken by and through intergovernmental organizations*, including activities related to

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* For example, the United Nations Environment Programme (UNEP), the Food and Agricultural Organization of the United Nations (FAO), the International Labour Organization (ILO), the World Health Organization (WHO), the United Nations Industrial Development Organization (UNIDO), and the Organisation for Economic Cooperation and Development (OECD).

instruments such as conventions, codes, and guidance materials. In accordance with their respective mandates, United Nations Institute for Training and Research (UNITAR) and the member organizations of the Inter-Organization Programme for the Sound Management of Chemicals (IOMC) should assist in building the legislative capacities of Governments.

3. Inadequate information

The Group of Experts,

I

Taking note of the work of intergovernmental organizations, Governments, industry and non-governmental organizations to promote the exchange of information on chemicals as called for in chapter 19 of Agenda 21,

Taking note of the activities of the Inter-Organization Programme for the Sound Management of Chemicals (IOMC) coordinating group on information exchange,

Recommends that the Governing Council of the United Nations Environment Programme (UNEP):

(a) Direct UNEP, as Task Manager for programme area C of chapter 19 of Agenda 21, to report on behalf of IOMC to the Intergovernmental Forum on Chemical Safety (IFCS) at its next meeting, on the activities of the IOMC member organizations to promote information exchange on chemicals;

(b) Request IFCS to recommend to the IOMC member organizations on actions to improve delivery of information, taking into consideration the information needs of consumers, workers, general population, non-governmental organizations, Governments, and others concerned with chemical safety and appropriate provisions for protection of data confidentiality. The recommendations should take into consideration the comparative advantages of each IOMC member organization. The types of information under consideration should include, but not be limited to, chemical hazards, risks, exposure, use, properties, fate, information on production and trade worldwide and nationally, cleaner alternatives and alternative technologies, accident prevention and preparedness, emergency response, socio-economics, and disposal;

II

Taking note of the London Guidelines for the Exchange of Information on Chemicals in International Trade and the FAO International Code of Conduct on the Distribution and Use of Pesticides, particularly the existing PIC procedure and the ongoing negotiations to develop a legally binding instrument on PIC,

Recognizing the value of providing importing countries with appropriate information on banned or severely restricted chemicals,

Recommends that the Governing Council, without prejudice to the ongoing negotiations in the Intergovernmental Negotiating Committee, in order to address identified information needs of importing countries and on the basis of an assessment, conducted by the UNEP secretariat, of the costs, benefits and impacts of measures available, consider further elaboration of provisions, where appropriate, related to:

(a) Notification of control actions;

(b) Labelling of chemicals according to the London Guidelines and the FAO Code of Conduct;

(c) Specific Customs Code for PIC chemicals;

(d) Export notification; and

(e) Import decisions;

III

Recognizing the concerns voiced regarding chemical releases into the environment,

Taking note of the work of the Organisation for Economic Cooperation and Development (OECD), United Nations Institute for Training and Research (UNITAR) and IFCS to promote Pollutant Release and Transfer Registers (PRTRs), as called for in chapter 19 of Agenda 21,

Recommends that the Governing Council of the United Nations Environment Programme (UNEP):

(a) Acknowledge the need for information on toxic releases in the environment in order to identify priority problems, target risk management and measure results;

(b) Encourage countries to adopt Pollutant Release and Transfer Registers and/or other tools needed to generate such information and encourage IFCS to continue work in this area;

IV

Acknowledging the progress achieved within IOMC to develop a globally harmonized system for chemical hazard classification,

Recommends that the Governing Council of the United Nations Environment Programme (UNEP) invite IFCS to conclude policy-level discussions in order to reach agreement on the entire set of cutpoints that would make up the harmonized system at or before its 1998 Inter-sessional Group meeting.

4. Issues related to risk reduction from a limited number of hazardous chemicals, including possible bans or phase-outs

The Group of Experts,

Having considered various issues related to risk reduction from a limited number of hazardous chemicals, including possible bans or phase-outs,

1. Recommends for the consideration of the Governing Council of the United Nations Environment Programme (UNEP) the conclusions of its deliberations on those issues as contained in the annex to the present recommendation;

2. Also recommends, on the basis of those conclusions, that the Governing Council:

(a) Invite the Intergovernmental Forum on Chemical Safety (IFCS) to develop criteria to identify chemicals, if any, other than persistent organic pollutants or those subject to controls under other legally binding instruments, such as the Montreal Protocol on Substances that Deplete the Ozone Layer, which create risks of international concern as identified in paragraphs 6 and 11 of the annexed conclusions and, therefore, should be subject to possible concerted action in a manner similar to that being pursued for POPs;*

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* Australia considered that the Group of Experts had not identified and discussed specific risks that are not already addressed or capable of being addressed under existing processes, to the extent that would warrant this recommendation. Furthermore, Australia noted that discussion at the meeting of the development of criteria to identify chemicals that might be subject to possible concerted action had been focused on situations where local activities or emissions lead to regional or global exposure (see

(b) Call upon Governments and relevant international organizations (such as the World Customs Organization) to take action to encourage and facilitate the development of new customs codes and procedures which would support implementation of the PIC procedure and other chemical-risk-reduction measures;

(c) Call upon donors, bilateral/regional/international cooperation and assistance organizations and recipient countries to give a higher priority to programmes for the improvement of chemicals management, in particular with respect to the implementation of concerted efforts to ban or phase out a chemical.

Annex

CONCLUSIONS OF THE DELIBERATIONS OF THE GROUP OF EXPERTS ON ISSUES RELATED TO RISK REDUCTION FROM A LIMITED NUMBER OF HAZARDOUS CHEMICALS, INCLUDING POSSIBLE BANS OR PHASE-OUTS

1. A prerequisite for undertaking concerted (international) action to reduce the risks of specific chemicals is a clear "identification" of the problems associated with the chemicals, based on comprehensive risk assessments, as well as international acceptance of the scientific basis underlying the assessments. An assessment includes: hazard identification; exposure assessment; and an assessment of the critical activities or emissions associated with the chemicals which lead to significant risks.

2. There are a range of concerted (international) risk-management options which are available to help reduce significant risks from specific chemicals. These include both regulatory and non-regulatory measures and could range from, for example, improving access to information, through restricting uses or exposure, to banning or phasing out over time all uses or production of the chemical.

3. The choice of the risk-reduction measure or measures should be based on the specific situation at issue, after consideration of the advantages and disadvantages of different options and taking into account the precautionary principle, as expressed in principle 15 of the Rio Declaration on Environment and Development. The selection of the risk-reduction measure should be appropriate to the situation and should be the least restrictive, meaning that which effectively reduces the risk to an acceptable level, with due consideration to minimizing the overall socio-economic impact and which is consistent with the trade related principles identified in chapters 2 and 39 of Agenda 21.

4. The Group recognized the criteria established in chapter 19 of Agenda 21 for undertaking risk-reduction programmes. In order to facilitate discussions, the Group identified two categories of problems with an international dimension associated with chemicals:

(a) Local activities and/or local emissions which lead to regional or global exposures. In other words, an exposure or release of a chemical in one country unintentionally results in a significant health or environmental risk in other countries. An example is a persistent mobile chemical, such as a POP, which is transported through environmental media;

(b) Trade in chemicals which lead to local emissions and/or local exposures. In this case, chemicals (as such, or in preparations or products) are intentionally distributed internationally. The use, handling or disposal of these chemicals may lead to significant health and environmental risks within a number of different countries. An example is a pesticide in international trade which may pose risks to human health or the environment

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paragraph 8 of the report of Drafting Group 2 on issues related to possible ban or phase-out of chemicals (UNEP/PIC/EG/1/CRP.3)). The extension, late in the meeting, of this recommendation to situations involving only local risks was therefore inappropriate.

under conditions of use in different countries depending upon their ecosystems and economic status.

5. It should be recognized that there may be chemicals which pose problems that fall into both categories including, for example, pesticides which are also POPs.

6. With respect to category (a) above (i.e., chemicals for which local activities lead to international exposure and risk, which might include PIC chemicals), it was agreed that concerted regional or global action might be necessary to address the problems. Recognizing that the least restrictive, effective risk-reduction measure should be adopted (as described in paragraph 3 above), the possible measures could include international agreements to: control emissions; ban or phase out certain uses; or ban or phase out all uses or production.

7. Recognizing the POPs activities initiated by Governing Council decision 18/32, the Ad Hoc Working Group on POPs of the Intergovernmental Forum on Chemical Safety (IFCS) should be encouraged to propose a process for the development of science-based criteria to identify any POPs which should be subject to possible future concerted action, in addition to the 12 specified in decision 18/32.

8. With respect to category (b) (i.e., chemicals which are distributed internationally and which result in local problems), it was recognized that the problems generally need to be addressed through local action but that there may be a need for regional/international action to support the local activities.

9. The types of actions which might be appropriate to address the problems associated with chemicals resulting in local problems include, but are not limited to:

(a) Capacity-building (international action);

(b) Technical/financial assistance including, e.g. technology transfer (international action);

(c) Monitoring/enforcement of emissions/exposure control;

(d) Training of personnel by exporting industry (international action);

(e) Bans or phase-out of certain uses at national/local or regional level;

(f) Export notifications (international action); and

(g) Import ban/local production ban based on a PIC decision.

10. With respect to the latter point, it was recognized that there may be chemicals of concern which are not included in the PIC procedure or which may be a candidate for PIC but have not yet been the subject of a Decision Guidance Document. Therefore, there may be a need for an interim measure involving assistance to the importing country. If a chemical is identified as a candidate for inclusion in the PIC procedure, priority should be given to preparing a Decision Guidance Document for that chemical.

11. It was recognized that the PIC procedure was designed to address the problems associated with chemicals in category (b) and that the range of risk-reduction measures associated with the PIC procedure should result in effective action to reduce risks to acceptable levels. Therefore, concerted global action to ban or phase out all uses or production should not be necessary to address these problems. However, it was suggested that there may be a limited number of instances where category (b) would result in the type of international concern which requires concerted global action. These circumstances should be where patterns of problems across a number of countries indicate that such action would be warranted.

12. Whichever measure is chosen to reduce risks of chemicals, in either category (a) or category (b), it is critical that appropriate actions be taken to ensure implementation (including enforcement) and monitoring by both importing and exporting countries. This might involve concerted action. For example, efforts should be undertaken to develop and implement new customs codes or procedures to facilitate implementation (including enforcement) and monitoring of trade-related aspects of national and international control actions.

13. Global measures have only been used where a high priority problem of global concern has been identified and where agreement has been reached that collective action of a global nature is necessary to address the problem effectively.

14. Several experts suggested that bilateral/regional/international cooperation and assistance, as described in paragraph 2 (c) of recommendation 4 above, should take the form of a mechanism similar to that established under the Vienna Convention for the Protection of the Ozone Layer and its Montreal Protocol on Substances that Deplete the Ozone Layer.

Annex II

DRAFT RECOMMENDATION SUBMITTED BY BELGIUM AND THE NETHERLANDS

The Group of Experts recommends that the Governing Council of the United Nations Environment Programme (UNEP), at its nineteenth session, when reviewing the Group's recommendations and giving consideration to the need to develop further measures within or beyond the PIC procedure, pursuant to paragraph 3 of Governing Council decision 18/12, and deciding on the appropriate international legal mechanism on persistent organic pollutants (POPs), pursuant to paragraph 2 of decision 18/32, give due consideration to the option of integrating the international legal mechanisms for the implementation of the PIC procedure, the measures with respect to POPs and any further measures resulting from the Governing Council's consideration of the report of the Expert Group.